

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

PLAINTIFFS CARA BARBER, ) CIV NO. 14-00217 HG-KSC  
MELISSA JONES, MELISSA )  
STREETER, KATIE ECKROTH, )  
BOB BARBER, TIM JONES, AND )  
RYAN ECKROTH, On Behalf of )  
Themselves and All Others )  
Similarly Situated, )  
)  
Class Plaintiffs, )  
)  
vs. )  
)  
OHANA MILITARY )  
COMMUNITIES, LLC, FOREST )  
CITY RESIDENTIAL )  
MANAGEMENT, INC.; and DOE )  
Defendants 1-10, )  
)  
Defendants. )  
\_\_\_\_\_)

DEPOSITION OF CARA BARBER

Taken on behalf of the Defendants OHANA MILITARY  
COMMUNITIES, LLC, FOREST CITY RESIDENTIAL MANAGEMENT,  
INC., at the law offices of Goodsill Anderson Quinn &  
Stifel, First Hawaiian Center, Suite 1600, 999 Bishop  
Street, Honolulu, Hawaii 96813, commencing at 9:50 a.m.,  
on Thursday, July 2, 2015 pursuant to Notice.

BEFORE: MYRLA R. ROMERO, CSR No. 397  
Notary Public, State of Hawaii

EXHIBIT 5

1 from those around my house, there were many homes,  
2 you know, built right around our house. But I can't  
3 say that I looked at every single foundation. You  
4 know what I'm saying? But I do recall the ones that  
5 I specifically saw.

6 Q Okay. So let's separate out the homes that  
7 were near your house that you observed from your  
8 house and the homes away from your house.

9 For the homes away from your house, are you  
10 saying that you only recognize this issue from  
11 photos?

12 A No. You're saying from around my house  
13 now?

14 Q So I'm saying the homes away from your  
15 house.

16 A Okay.

17 Q Are you saying that you recognize what you  
18 contend is insufficient levels of soils, did you  
19 observe that firsthand or did you only observe that  
20 in retrospect by looking at your pictures?

21 A I observed it when I was there but didn't  
22 think anything much of it until after becoming aware  
23 of the Pesticide Soil Management Plan and going back  
24 and seeing those pictures and thinking, hmm?

25 Q So at the time you didn't make any

1 determinations about what level of soil was being  
2 placed on those foundations away from your home. Is  
3 that fair to say?

4 A Again, are we talking about photographs?

5 Q Right now we're talking about your direct  
6 observations.

7 A Other sites away from my house?

8 Q Correct.

9 A Okay. So yes, I believe my recollection  
10 would come from my photographs.

11 Q Okay. And would sites away from your home  
12 you never did a systematic observation and that  
13 sounds a little technical but really all I mean is  
14 okay, you went out and observed when the foundation  
15 was there, you went and observed when the foundation  
16 was being removed and then you went to the same place  
17 afterwards and observed the new foundation. Did you  
18 do anything like that?

19 A Not intentionally, no.

20 Q Now, for the homes near your home, did you  
21 go through that process?

22 A Not intentionally, no.

23 Q Okay.

24 A I was just trying to figure out why our  
25 families were sick.

277

1 C E R T I F I C A T E

2 STATE OF HAWAII )  
3 CITY AND COUNTY OF HONOLULU ) SS:  
4

5 I, MYRLA R. ROMERO, do hereby certify:

6  
7 That on Thursday, July 2, 2015, at  
8 9:50 a.m., appeared before me CARA BARBER, whose  
9 275-page deposition is contained herein; that prior  
10 to being examined CARA BARBER, was by me duly sworn  
11 or affirmed pursuant to Act 110 of the 2010 Session  
12 of the Hawaii State Legislature; that the deposition  
13 was taken down by me in machine shorthand and was  
14 thereafter reduced to typewritten form under my  
supervision; that the foregoing represents, to the  
best of my ability, a true and correct transcript of  
the proceedings had in the foregoing matter; that  
pursuant to Rule 30(e) of the Hawaii Rules of Civil  
Procedure, a request for an opportunity to review and  
make changes to this transcript were made by the  
deponent or a party prior to the completion of the  
deposition.

15

16 I further certify that I am not an attorney  
17 for any of the parties hereto, nor in any way  
concerned with the cause.

18

19

20 Dated this 12th day of July, 2015, in  
21 Honolulu, Hawaii.

22

23



24  
25  
MYRLA R. ROMERO, CSR NO. 397  
Notary Public, State of Hawaii

1 Q And at the time that you were observing the  
2 homes or the foundation process near your home, did  
3 you make any determinations about the specific level  
4 of soils that were being placed on foundations?

5 A No, I can't say that I did. I just noted  
6 what was going on periodically. You know what I  
7 mean?

8 Q Okay. And is it fair to say, then, that is  
9 this a situation where after reading the Pesticide  
10 Soil Management Plan later, your recollection is that  
11 the amounts of soils you saw in passing around your  
12 home were approximately six inches?

13 A And also comparing that to the photographs.

14 Q And looking at the photographs in  
15 retrospect?

16 A Right.

17 Q Okay. Is there any other basis for your  
18 contention that sufficient levels of soil were not  
19 placed on the foundations -- I'm sorry, that  
20 sufficient level of soils were not placed on the old  
21 soils or that sufficient level of soils were not  
22 removed?

23 A Based on Forest City, they did not do many  
24 of the things that they claimed they would do in  
25 their Pesticide Soil Management Plan caused